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01/31/2006 03:52 PM

To  
Subject 2424 Wisconsin Avenue, Downers Grove, Illinois

Mr. Enwiya:

Our client Wisconsin Avenue Property, L.L.C. ("WAP") holds legal title to the site at 2424 Wisconsin Avenue, Downers Grove, Illinois (the "2424 Site"), which is within Ellsworth Industrial Park. You are probably aware that WAP received from the U.S. Environmental Protection Agency ("EPA") the CERCLA special notice letter dated 12/28/04 regarding Ellsworth Industrial Park and that WAP has submitted requests that EPA recognize it as an innocent landowner and/or enter into a de minimis landowner settlement with WAP with respect to the 2424 Site. EPA has not yet formally responded to these requests.

I am sending this message to you at Tom Krueger's suggestion because I spoke with him a few days ago about WAP's need to perform parking lot repairs at the 2424 Site. Tom suggested that I send you a message to introduce ourselves and to start the dialogue with you as the EPA project manager about this proposed work.

The parking lot extends along the entire east side of the building on the 2424 Site and extends on the east side about 30 feet north of the northern building face and about 15 feet south of the south building face. These parking lot repairs may be as simple as patching in isolated locations or may be as extensive as a complete resurfacing of the parking lot. If the parking lot is resurfaced, the work may simply involve putting down a new asphalt surface on top of the existing surface or may alternatively involve the removal of the existing parking lot surface and sub-base and replacing them with a new sub-base and parking surface. We understand that the sub-base is about 3 or 4 inches deep below the existing asphalt parking surface. The exact scope of the parking lot work has yet to be determined, but WAP's representatives will be able separately to describe the work more specifically once they have completed their review of the scope of the needed repairs.

We are advising you of this proposed work because WAP is aware of the requirement in CERCLA Section 122(e)(6) that prohibits inconsistent response actions once a remedial investigation/feasibility study ("RI/FS") has been authorized by EPA. While WAP does not believe that the parking lot repair work constitutes a "response action" for purposes of Section 122(e)(6) or that its parking lot repairs (confined as they are to the surface and perhaps as much as 3 or 4 inches below the existing parking surface) have any implications for or impact on any RI/FS work or other CERCLA response action, WAP does want to notify EPA of this work and make certain that EPA has no objections to it. Specifically, WAP wants to avoid (i) any complication or inconsistency involving its parking lot repair work with the RI/FS or any other response action at Ellsworth Industrial Park and (ii) any action that would compromise or prejudice its position as an innocent landowner or as a landowner eligible for a de minimis landowner settlement or otherwise cause it to be considered a potentially responsible party with respect to the 2424 Site or Ellsworth Industrial Park. For those reasons, WAP would like to work with EPA to make sure that its parking lot repairs are acceptable to EPA, and WAP will ask that EPA provide a letter to WAP confirming that the parking lot repairs are not inconsistent with the RI/FS work or any other response action at the 2424 Site or Ellsworth Industrial Park and will not compromise or prejudice its innocent landowner and de minimis landowner settlement requests to EPA.

We anticipate that the next step in this process would be for WAP to submit to you a proposed scope of work for the parking lot repairs. In that regard, it would be helpful to WAP to receive from EPA a copy of the proposed scope of the RI/FS work, at least insofar as it relates to the 2424 Site, for its review and information as it prepares the scope of work for the parking lot repairs. If you could send that portion of the RI/FS work plan to me, I will forward it to WAP for its use and review.

We look forward to working with EPA on this work to facilitate the parking lot repairs in a way that is acceptable to EPA.

Tim Ramsey

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